

REMARKS

Claims 15, 16, 17-19, 21-23, 25-30 are pending in this application. Claims 1 and 27 are the independent claims. Claim 15 is amended. Claims 16, 17, 19, 21, 26 and 27 are withdrawn. Claims 28-30 are new. Claims 1-14, 20 and 24 were previously cancelled. Reconsideration and allowance of the present application is respectfully requested.

Applicant's Filing of the Request for Continued Examination (RCE)

Upon review of the enclosed Amendment and discovery of any additional references after further search and/or consideration, Applicants respectfully request that the Examiner contact Corey E. Smith, Reg. No. 57,807, to discuss the newly found references and/or possible claim amendments that may place the application in condition for Allowance.

Example Embodiments

Example embodiments are directed toward a playable surface that resembles a natural turf field, as described in at least paragraphs [0005]-[0007] of the instant published application (US 2006/0084513 A1). The playable surface is not too "bouncy," and does not provide too great an energy restitution. Therefore, behavior of a ball is not adversely affected by a large spring force of the resilient layer. Furthermore, as a result of the location of the air chamber in the layer of resilient and/or damping material, movement on the playable surface is damped, providing a

“natural feel” for the turf (as described specifically in paragraph [0007] of the published application).

Rejections under 35 U.S.C. §103 – Magnuson in view of Muldner

Claims 15, 18 and 22 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,460,867 (“Magnuson”) in view of U.S. Patent No. 4,318,248 (“Muldner”). This rejection is respectfully traversed.

With regard to claim 15, Applicant asserts that Magnuson in view of Muldner does not teach or suggest “a relatively hard flat substrate,” as recited in claim 15. As shown in all of the Magnuson embodiments (in particular FIGS. 1-2 and 4), the “substrate” 13 is embossed with air chambers embedded in the “substrate” 13. Applicant asserts that an embossed substrate with air chambers dug into the surface of the substrate, is not a “hard flat substrate,” as recited in claim 15. Instant example embodiments include a “hard flat substrate” that offers a stable surface upon which to then provide a resilient and/or damping material with air chambers and a top layer. Location of the air chambers provides a playable surface that is not too “bouncy,” and provides the playable surface with a natural feel. However, Magnuson does not teach a flat substrate upon which to build such a playable surface.

With regard to Muldner, Applicant asserts that Muldner does not remedy the deficiencies of Magnuson as argued above. As an initial matter, Muldner does not teach or suggest or even relate to a playable surface that offers a natural feel without being too bouncy, as described in the instant example embodiments (and, as provided by the structure recited in instant claim 15). Instead, Muldner only applies to the design of a laminated growth mat, which provides an industrialized way to sow and

grow lawns or other vegetation on soil. Consequently, Muldner is almost entirely inapplicable to claim 15. Therefore, a person of ordinary skill in the art would not be motivated to combine Muldner with Magnuson in order to provide a playable surface with a natural feel, as provided by the structure recited in claim 15. For at least these reasons, Magnuson in view of Muldner does not teach or suggest all of the limitations of claim 15.

Applicant further asserts that, even if Muldner were to be combined with Magnuson, assuming *arguendo* that such a combination can be made (Applicant does not concede that the combination can be made), the combination of Muldner and Magnuson still would not teach or suggest “a relatively hard flat substrate,” as recited in claim 15. Muldner only teaches a mat-like laminated structure including a fibrous veil 25, an adhesive layer 23, a bed of seeds 27, another adhesive binding material 15 and a base sheet 13 to be placed on soil. However, Muldner does not disclose a “hard flat substrate,” as recited in claim 15. Therefore, any combination of Magnuson and Muldner still does not teach or suggest “a relatively hard flat substrate,” as recited in claim 15.

For at least the reasons stated above related to claim 15, Applicant asserts that the claim is patentable. Due at least to the dependence of claims 18 and 22 on claim 15, Applicant also asserts that these claims are patentable. Therefore, Applicant respectfully requests that this art ground of rejection of these claims under 35 U.S.C. §103 be withdrawn.

Rejections under 35 U.S.C. §103 – Magnuson in view of Muldner/Friedrich

Claim 25 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Magnuson in view of Muldner and further in view of U.S. Patent No. 4,007,307 (“Friedrich”). This rejection is respectfully traversed.

With regard to claim 25, the Examiner uses Friedrich to teach the limitations of claim 25. With regard to base claim 15, Applicant asserts that claim 15 is patentable over Magnuson in view of Muldner for at least the reasons stated above. Applicant asserts that Friedrich does not remedy the deficiencies of Magnuson in view of Muldner, with regard to claim 15, nor does the Examiner use Friedrich for this purpose. Therefore, claim 15 is patentable over all combinations of Magnuson, Muldner and Friedrich.

For at least the reasons stated above related to claim 15, Applicant asserts that claim 15 is patentable. Due at least to the dependence of claim 25 on claim 15, Applicant also asserts that claim 25 is patentable. Therefore, Applicant respectfully requests that this art ground of rejection of these claims under 35 U.S.C. §103 be withdrawn.

Rejections under 35 U.S.C. §103 – Magnuson in view of Muldner/Garcia

Claims 18 and 23 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Magnuson in view of Muldner and further in view of U.S. Patent No. 5,254,039 (“Garcia”). This rejection is respectfully traversed.

With regard to claims 18 and 23, the Examiner uses Garcia to teach the limitations of these claims. With regard to base claim 15, Applicant asserts that claim 15 is patentable over Magnuson in view of Muldner for at least the reasons stated

above. Applicant asserts that Garcia does not remedy the deficiencies of Magnuson in view of Muldner, with regard to claim 15, nor does the Examiner use Garcia for this purpose. Therefore, claim 15 is patentable over all combinations of Magnuson, Muldner and Garcia.

For at least the reasons stated above related to claim 15, Applicant asserts that claim 15 is patentable. Due at least to the dependence of claims 18 and 23 on claim 15, Applicant also asserts that these claims are patentable. Therefore, Applicant respectfully requests that this art ground of rejection of these claims under 35 U.S.C. §103 be withdrawn.

New Claims

Applicant adds new claims 28-30. Applicant asserts that any combination of Magnuson, Muldner, Friedrich and Garcia does not teach or suggest “wherein the air chambers are embedded only in the at least one layer of resilient and/or damping material and not in the relatively hard substrate” (as recited in claim 28) or “wherein the air chambers are embedded in the at least one layer of resilient and/or damping material such that they exist above a top surface of the relatively hard flat substrate” (as recited in claim 29) or “wherein the air chambers are embedded in the at least one layer of resilient and/or damping material such that they vertically project from a top surface of the relatively hard flat substrate” (as recited in claim 30). In particular, the Examiner’s primary reference, Magnuson, only provides “air chambers” that are embedded into the top surface of the asserted “hard substrate” as opposed to the “at least one layer of resilient and/or damping material.” For at least these reasons, Applicant asserts that claims 28-30 are patentable.

CONCLUSION

In view of the above remarks and amendments, Applicant respectfully submits that each of the rejections has been addressed and overcome, placing the present application in condition for allowance. A notice to that effect is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to contact the undersigned.

Pursuant to 37 C.F.R. §1.17 and 1.136(a), Applicant hereby petitions for a three (3) month extension of time for filing a reply to the outstanding Office Action and submit the required \$555 (small entity) extension fee herewith.

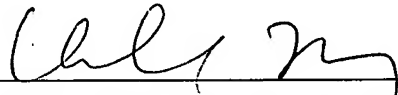
Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKEY, & PIERCE, P.L.C.

By



Donald J. Daley, Reg. No. 34,313

P.O. Box 8910
Reston, Virginia 20195
(703) 668-8000

DJD/^{CFS}CES:cfc